

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TIG INSURANCE COMPANY

Plaintiff,

V.

PUBLIC UTILITY DISTRICT NO. 1 OF
COWLITZ COUNTY, WASHINGTON, a
Washington municipal corporation,

Defendant.

Case No. C04-5052RBL

ORDER

This matter is before the court on TIG's Motion to Stay the District's Extra Contractual Claims (Dkt. #322). The Court has reviewed the motion and declaration, defendant's opposition and plaintiff's reply, and the entirety of the record and files herein.

Notwithstanding TIG’s earlier statement that it would not seek a stay of the extra contractual claims while the coverage issues were on appeal, *see* Letter from Douglas G. Houser to the Court dated July 2, 2007 (Dkt. #298-2), plaintiff has now moved to stay this action pending resolution of the coverage issues. TIG argues that a change in circumstances warrant their change of heart. Specifically, they argue that because an appeal has been filed, “the coverage issues remain unresolved”; that Chief Judge Lasnik has certified a question to the Washington State Supreme Court in another insurance bad faith action and that the “outcome [could] have direct, and perhaps dispositive, bearing on the instant case”; and that the District seeks to apply retroactively amendments to RCW 48.30.010 regarding bad faith treble damages which are not yet, nor may never be, in effect. Motion, Dkt. #322, pp. 2-4.

TIG's first "change in circumstances" is not a change at all but is exactly what was anticipated by the parties in this case from the beginning, if the court ruled, as it did, in the District's favor on the coverage issues. It has always been this Court's opinion that this case should first be fully litigated on the coverage issues before the bad faith claims are addressed. Furthermore, the Washington State Supreme Court's Opinion in response to the questions certified by Chief Judge Lasnik may affect the litigation in this matter and this case should be stayed for that reason as well. Therefore, it is hereby

ORDERED that TIG's Motion to Stay the District's Extra Contractual Claims (Dkt. #322) is GRANTED. This matter is stayed pending final resolution of the coverage issues.

IT IS SO ORDERED this 21st day of September, 2007.

September, 2007.
Ronald B. Leighton
RONALD B. LEIGHTON
UNITED STATES DISTRICT JUDGE